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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/812,163
Filing Date: March 19, 2001
Appellant(s): YUZAWA, KEIJI

Daryl K. Neff
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/18/2006 appealing from the Office action mailed 2/14/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-24 have been cancelled.

Claims 29, 34, 39 and 44 have been cancelled subsequent to the final rejection.

Claims 35-38 and 40-43 have been amended subsequent to the final rejection.

Claims 25-28, 30-33, 35-38 and 40-43 are pending.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amended text of claims 35-38, 40 and 41-43 after final rejection filed on 12/18/06 does not include markings, however, the amendment after final rejection filed on 9/18/06 does include markings.

The amended claims 35 and 40 filed on 12/18/06 have been entered.

The amended claims 36-38 and 41-43 filed on 12/18/06 have not been entered because the amendment has affected the scope of the invention.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,801,747	Bedard	9-1998
6,177,931	Alexander	1-2001
6,185,360	Inoue	2-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 25-44** are rejected under 35 U.S.C. 103(a) as being obvious over Bedard (US 5,801,747) in view of Alexander et al. (US 6,177,931), hereinafter Alexander, and Inoue et al. (US 6,185,360), hereinafter Inoue.

3. **As to claims 25 and 35**, Bedard discloses the invention substantially as claimed, including a method of transmitting items containing content information to a user terminal (col. 1, lines 7-12, "presentation of television programs and television program guide information to a television viewer"; col. 1, lines 30-50, "Electronic Program Guides"; col. 3, lines 10-13), comprising:

providing a user terminal (col. 3, lines 4-15, "television, a viewer interface, a viewer interface control"; col. 8, lines 31-50, "personal computer");

transmitting items of information to said user terminal (col. 3, lines 10-13, "viewer interface receives input in the form of television program guide information from the various broadcast sources"; col. 8, lines 31-50, "provide information from the internet to the viewer");

at said user terminal, receiving said transmitted items containing content information (col. 3, lines 57-62, "downloading"; col. 4, lines 24-37) and assigning access

priorities to said received items (col. 2, lines 5-22, "viewer preferences"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of the entry to be added"; col. 10, lines 22-25, "means for removing a least preferred viewing status from said viewer profile listing");

selecting some of said transmitted items of information on the basis of information representing an access priority for each of said selected items of information representing said access priorities (col. 7, lines 19-27, "row 404 may be configured by an EPG in accordance with the viewer's preferred channels and/or programming categories...thus rows 404 may be configured by an EPG in accordance with the viewer profile such that preferred channels or preferred categories of programming are displayed at the top of table 402, and may be easily selected by a viewer"; col. 3, lines 32-62; col. 1, lines 39-50;);

selectively storing said selected items in said user terminal (col. 2, lines 23-26; col. 3, lines 38-45; col. 4, lines 24-37);

arranging said stored items of information in an order according to said access priorities (col. 6, lines 2-8, "the viewer profile must continue to search for an entry 202 that is old enough to be removed from viewer profile array 200"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of

existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of the entry to be added"; col. 10, lines 22-25, "means for removing a least preferred viewing status from said viewer profile listing").

4. Although obvious to one of ordinary skill in the art, Bedard does not specifically teach user selecting stored items including at least one of moving images or audio sound to be reproduced at a user-selected time. Alexander teaches selecting one of said stored items (col. 5, line 59, "the selection is inherently made via the user interface, such as joy stick and track ball viewer remote interface"; col. 5, line 53 – col. 6, line 14, "viewer interaction capabilities with the EPG, which provides for the storage of program schedule information in an electronic memory, col. 1, lines 53-60; col. 7, line 57 – col. 8, line 35, "record selection function...viewer instructs the EPG what programs to add to the Record List") and causing said at least one of moving images or audio sound to be reproduced at a user selected time (col. 11, line 45 – col. 12, line 44, "in the EPG's Record Function, the viewer selects a program title for recording...once a program title has been selected, the viewer is asked to select a record-scheduling option...***the viewer can select Once, Daily, Weekly, or Regularly as a record-scheduling option***"; col. 12, lines 45-51, "the EPG's Record Function provides a Record List that identifies the titles of programs that the viewer has selected to be recorded"). It would

have been obvious to one of ordinary skill in the art at the time of the invention to modify Bedard by selecting the stored items including at least one of moving images or sound and reproducing the content at a user-selected time in order to provide for convenient access to the recorded content, as taught by Alexander (Alexander, col. 12, lines 10-29, "the viewer is ready to view the DVD recordings").

The examiner also relies Inoue reference to teach selecting one of said stored items and causing said at least one of moving images or audio sound to be reproduced at a user selected time (25, fig. 3, "storage region of reservation information to record"; fig. 10, "reproduction of program A or B"; figs. 13-15; col. 7, lines 49-60; col. 16, lines 33-67, "the unit time for recording each program can be set at a specific time rate depending on the priority of the two program"; col. 17, lines 11-25, "the user ***reproduces the recorded program*** as shown in Fig. 10-a and Fig. 10-b). It would have been obvious to one of ordinary skill in the art at the time the invention to modify Bedard by selecting one of the stored item to be reproduced from the user selected item in order to play back the recorded program at a user's convenience time (Inoue, col. 1, lines 31-40; col. 17, lines 11-25, "the user reproduces the recorded program as shown in Fig. 10-a and Fig. 10-b).

5. **As to claims 30 and 40**, they are rejected for the same reasons set forth in claims 25 and 35 above. In addition, Bedard teaches a receiver operable to receive items containing content information transmitted to said information receiving apparatus

(col. 1, lines 51-65, "viewer of a given television receiver"; col. 3, lines 4-15, "a television, a view interface...set-top unit"); a controller operable to select some items of said received items, said selected items being selected on a basis of information representing access priorities for respective ones of said selected items (col. 3, lines 32-62; col. 7, lines 19-64; col. 1, lines 39-50;); and an information storing unit operable to selectively store said selected items (col. 2, lines 23-26; col. 3, lines 38-45; col. 4, lines 24-37), wherein said controller is further operable to delete at least one of said stored items in an order beginning with said stored item having a lowest one of said access priorities (col. 6, lines 2-8, "the viewer profile must continue to search for an entry 202 that is old enough to be removed from viewer profile array 200"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of the entry to be added"; col. 10, lines 22-25, "means for removing a least preferred viewing status from said viewer profile listing").

6. **As to claims 26, 31, 36 and 41**, Bedard discloses wherein said access priority of each said selected item is determined by first processing (col. 4, lines 49-65; col. 7, lines 19-27) including

i) associating with each of said information items category attribute information corresponding to a category assigned to the content information contained in each said

information item, said category being one of a plurality of categories (col. 4, lines 15-26, "the viewer profile can monitor and store preference information...in conjunction with an EPG"; col. 1, lines 7-12, "presentation of television programs and television program guide information to a television viewer"; col. 1, lines 30-50, "Electronic Program Guides"; col. 3, lines 10-13),

ii) transmitting said category attribute information associated with each said transmitted item (col. 3, lines 57-62, "the viewer profile may be implemented in software and like the EPG, downloaded into the viewer interface via an interactive television network"; col. 3, lines 10-13, "viewer interface receives input in the form of television program guide information from the various broadcast sources"; col. 8, lines 31-50, "provide information from the internet to the viewer"),

iii) using said transmitted category attribute information at said user terminal, counting a number of times said transmitted items in each said category are accessed by a user to obtain count values of said plurality of categories (col. 4, lines 49-65, "counter 204"), and

iv) determining said access priorities from said count values (col. 4, lines 49-65; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 7, lines 19-27).

7. **As to claims 27, 32, 37 and 42**, Bedard further teaches wherein said access

priority of each said selected item is determined by second processing (col. 3, lines 33-56) including:

i) associating with each of said information items priority attribute information corresponding to a priority assigned to the content information contained in each said information item, said priority being one of a plurality of priorities (fig. 2; col. 4, lines 15-65, "the viewer profile can monitor and store preference information...in conjunction with an EPG"),

ii) transmitting said priority attribute information associated with each said transmitted item (col. 3, lines 57-62, "the viewer profile may be implemented in software and like the EPG, downloaded into the viewer interface via an interactive television network"; col. 8, lines 16-63), and

iii) using said transmitted priority attribute information at said user terminal to determine said access priority for each said selected item (col. 2, lines 6-12, "monitoring a viewer's activities, determining not only the viewer's favourite channels, and configuring of display of an EPG in accordance with the viewer's viewing preferences"; col. 4, lines 49-65; col. 7, lines 19-64, "rows 404 may be configured by an EPG in accordance with the viewer profile such that preferred channels or preferred categories of programming are displayed at the top of table 402"; col. 8, lines 22-43, "viewer profile array 200 can also be used to identify channels that a viewer has not been watching"; col. 8, lines 51-63, "keeping track of viewing habits through viewer profile array 200").

8. **As to claims 28, 33, 38 and 43**, Bedard further teaches wherein said access

priority of each said selected item is determined by first processing (col. 4, lines 49-65; col. 7, lines 19-27) including

i) associating with each of said information items category attribute information corresponding to a category assigned to the content information contained in each said information item, said category being one of a plurality of categories (col. 4, lines 15-26, "the viewer profile can monitor and store preference information...in conjunction with an EPG"; col. 1, lines 7-12, "presentation of television programs and television program guide information to a television viewer"; col. 1, lines 30-50, "Electronic Program Guides"; col. 3, lines 10-13),

ii) transmitting said category attribute information associated with each said transmitted item (col. 3, lines 57-62, "the viewer profile may be implemented in software and like the EPG, downloaded into the viewer interface via an interactive television network"; col. 3, lines 10-13, "viewer interface receives input in the form of television program guide information from the various broadcast sources"; col. 8, lines 31-50, "provide information from the internet to the viewer"),

iii) using said transmitted category attribute information at said user terminal, counting a number of times said transmitted items in each said category are accessed by a user to obtain count values of said plurality of categories (col. 4, lines 49-65, "counter 204"), and

iv) determining said access priorities from said count values (col. 4, lines 49-65; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding

channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 7, lines 19-27); and by second processing (col. 3, lines 33-56) including:

i) associating with each of said information items priority attribute information corresponding to a priority assigned to the content information contained in each said information item, said priority being one of a plurality of priorities (fig. 2; col. 4, lines 15-26, "the viewer profile can monitor and store preference information...in conjunction with an EPG"),

ii) transmitting said priority attribute information associated with each said transmitted item (col. 3, lines 57-62, "the viewer profile may be implemented in software and like the EPG, downloaded into the viewer interface via an interactive television network"; col. 8, lines 16-63), and

iii) using said transmitted priority attribute information at said user terminal to determine said access priority for each said selected item (col. 2, lines 6-12, "monitoring a viewer's activities, determining not only the viewer's favourite channels, and configuring of display of an EPG in accordance with the viewer's viewing preferences"; col. 4, lines 49-65; col. 7, lines 19-64, "rows 404 may be configured by an EPG in accordance with the viewer profile such that preferred channels or preferred categories of programming are displayed at the top of table 402"; col. 8, lines 22-43, "viewer profile array 200 can also be used to identify channels that a viewer has not been watching"; col. 8, lines 51-63, "keeping track of viewing habits through viewer profile array 200").

9. **As to claims 29, 34, 39 and 44**, Bedard further teaches comprising determining an access tendency of the user from said count values of said plurality of categories and determining said access priorities from said access tendency (col. 4, lines 49-65; col. 6, lines 23-27, "view profile array 200 is created wherein the order of entries 202 indicates which channels have been most recently viewed, while the corresponding counters 204 and 206 indicate the length and frequency of visits to the various channels in array 200"; col. 7, lines 19-27; col. 6, lines 28-46, "the relevance of potential new entry 202 to be ***weighed against*** the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...*total viewing unit counters 204 of the current entries 202* ***are much lower***").

(10) Response to Argument

A. Rejection of Claims 25-26, 28, 35-36 and 38

Appellant's Argument: Appellant argues that a user of the system described in Bedard has no ability to select a program to be reproduced from a set of program that are stored locally at a user terminal based on the user's preferences.

Examiner's Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Bedard explicitly discloses a user interface (a remote control, cursor or pointer) to

select a program from a set of program that are stored locally at a user terminal based on the user's preferences (col. 4, lines 24-37, "***viewer profile can store preference information on multiple viewers in conjunction with an electronic program guide***") (col. 1, lines 39-50, "interacting with the EPG via a remote control...the viewer control over a cursor or pointer with which to make selections"; col. 3, lines 26-62, "drawing upon its stored information, the viewer profile will operate in conjunction with a remotely controllable EPG...***the viewer profile can be used to lock out specified channels or categories of programming***"; col. 7, lines 19-27, "row 404 may be configured by an EPG in accordance with the viewer's preferred channels and/or programming categories...thus ***rows 404 may be configured by an EPG in accordance with the viewer profile such that preferred channels or preferred categories of programming*** are displayed at the top of table 402, and ***may be easily selected by a viewer")***. What Bedard fails to disclose is storing said selected items that may be ***reproduced*** at a user-selected time. The examiner relies upon Alexander to teach selecting one of said stored items (col. 5, line 59, "the selection is inherently made via the user interface, such as joy stick and track ball viewer remote interface"; col. 5, line 53 – col. 6, line 14, "viewer interaction capabilities with the EPG, which provides for the storage of program schedule information in an electronic memory, as shown in col. 1, lines 53-60; col. 7, line 57 – col. 8, line 35, "record selection function...viewer instructs the EPG what programs to add to the Record List") and causing said at least one of moving images or audio sound to be reproduced at a user selected time (col. 11, line 45 – col. 12, line 44, "in the EPG's Record Function, the

viewer selects a program title for recording...once a program title has been selected, the viewer is asked to select a record-scheduling option...***the viewer can select Once, Daily, Weekly, or Regularly as a record-scheduling option***"; col. 12, lines 45-51, "the EPG's Record Function provides a Record List that identifies the titles of programs that the viewer has selected to be recorded"). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bedard by selecting the stored items including at least one of moving images or sound and reproducing the content at a user-selected time in order to provide for convenient access to the recorded content, as taught by Alexander (Alexander, col. 12, lines 10-29, "the viewer is ready to view the DVD recordings").

The examiner also relies on Inoue reference to teach selecting one of said stored items and causing said at least one of moving images or audio sound to be reproduced at a user selected time (25, fig. 3, "storage region of reservation information to record"; fig. 10, "reproduction of program A or B"; figs. 13-15; col. 7, lines 49-60; col. 16, lines 33-67, "the unit time for recording each program can be set at a specific time rate depending on the priority of the two program"; col. 17, lines 11-25, "the user ***reproduces the recorded program*** as shown in Fig. 10-a and Fig. 10-b). It would have been obvious to one of ordinary skill in the art at the time the invention to modify Bedard by selecting one of the stored item to be reproduced from the user selected item in order to play back the recorded program at a user's convenience time (Inoue, col. 1, lines 31-40; col. 17, lines 11-25, "the user reproduces the recorded program as shown in Fig. 10-a and Fig. 10-b).

Appellant's Argument: Appellant argues that Alexander et al. neither teaches nor suggests selecting such content-containing items and selectively storing them on the basis of information representing the access priorities.

Examiner's Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner does not rely upon Alexander to teach selecting such content-containing items and selectively storing them on the basis of information representing the access priorities. As noted in the Final Office Action, the examiner relies on Alexander only to teach selecting one of said stored items (col. 5, line 59, "the selection is inherently made via the user interface, such as joy stick and track ball viewer remote interface"; col. 5, line 53 – col. 6, line 14, "viewer interaction capabilities with the EPG, which provides for the storage of program schedule information in an electronic memory, col. 1, lines 53-60; col. 7, line 57 – col. 8, line 35, "record selection function...viewer instructs the EPG what programs to add to the Record List") and causing said at least one of moving images or audio sound to be reproduced at a user selected time (col. 11, line 45 – col. 12, line 44, "in the EPG's Record Function, the viewer selects a program title for recording...once a program title has been selected, the viewer is asked to select a record-scheduling option...***the viewer can select Once, Daily, Weekly, or Regularly as a record-scheduling option***"; col. 12, lines 45-51, "the

EPG's Record Function provides a Record List that identifies the titles of programs that the viewer has selected to be recorded").

Appellant's Argument: Appellant argues that Alexander et al. neither teaches nor suggests arranging stored items of information in an order according to access priorities, and at a user-selected time after storing the selected items, selecting one of the stored items by the user and causing moving images and/or audio sound to be reproduced from the user-selected item.

Examiner's Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Once again, the examiner does not rely upon Alexander to teach arranging stored items of information in an order according to access priorities because Bedard explicitly teaches arranging said stored items of information in an order according to said access priorities (col. 6, lines 2-8, "the viewer profile must continue to search for an entry 202 that is old enough to be removed from viewer profile array 200"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of

the entry to be added"; col. 10, lines 22-25, "means for removing a least preferred viewing status from said viewer profile listing").

What the examiner relies on Alexander is only to teach selecting one of said stored items (col. 5, line 59, "the selection is inherently made via the user interface, such as joy stick and track ball viewer remote interface"; col. 5, line 53 – col. 6, line 14, "viewer interaction capabilities with the EPG, which provides for the storage of program schedule information in an electronic memory, col. 1, lines 53-60; col. 7, line 57 – col. 8, line 35, "record selection function...viewer instructs the EPG what programs to add to the Record List") and causing said at least one of moving images or audio sound to be reproduced at a user selected time after storing the selected items (col. 11, line 45 – col. 12, line 44, "in the EPG's Record Function, the viewer selects a program title for recording...once a program title has been selected, the viewer is asked to select a record-scheduling option...***the viewer can select Once, Daily, Weekly, or Regularly as a record-scheduling option***"; col. 12, lines 45-51, "the EPG's Record Function provides a Record List that identifies the titles of programs that the viewer has selected to be recorded").

Appellant's Argument: Appellant argues that Inoue et al. neither teaches nor suggests arranging stored items of information in an order according to access priorities, and at a user-selected time after storing the selected items, user selecting one of the stored items by the user and causing moving images and/or audio sound to be reproduced from the user-selected item.

Examiner's Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Once again, the examiner does not rely upon Inoue to teach arranging stored items of information in an order according to access priorities because Bedard explicitly teaches arranging said stored items of information in an order according to said access priorities (col. 6, lines 2-8, "the viewer profile must continue to search for an entry 202 that is old enough to be removed from viewer profile array 200"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be weighed against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of the entry to be added"; col. 10, lines 22-25, "means for removing a least preferred viewing status from said viewer profile listing").

What the examiner relies on Inoue is only to teach at a user-selected time after storing the selected items (col. 1, lines 31-40, "if a broadcast cannot be viewed in real time, it is a general practice to reserve recording of the program in the recording apparatus and play it back later"; it is understood by one of ordinary skill in the art that the reproduced program or recorded program stored on a memory can be viewed by the user at the user selected time), user selecting (inputting) one of the stored items by the

user, and causing moving images and/or audio sound to be reproduced from the user-selected item (25, fig. 3, "storage region of reservation information to record"; fig. 10, "reproduction of program A or B"; 1-3, fig. 11A; 4-7, fig. 11B, "***user instructs to reserve to record the program corresponding to specific service addition information in first memory***; col. 6, lines 20-42; col. 7, lines 26-65, "***reservation input means for reserving to record a program...the selected cell is the object program reserved for recording...this input is entered by using the remote control or keyboard***"; col. 16, lines 33-67, "the unit time for recording each program can be set at a specific time rate depending on the priority of the two program"; col. 17, lines 11-25, "***the user reproduces the recorded program*** as shown in Fig. 10-a and Fig.10-b). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify Bedard by selecting one of the stored item to be reproduced from the user selected item in order to play back the recorded program at the user selected time (Inoue, col. 1, lines 31-40; col. 17, lines 11-25, "the user reproduces the recorded program as shown in Fig. 10-a and Fig. 10-b).

Appellant's Argument: Appellant argues that claim 35 recites an apparatus and contains analogues recitations. For the foregoing reasons, claim 35 is also believed to be allowable.

Examiner's Response: claim 35 is properly rejected under 35 USC 103(a) for the same reasons cited with respect to claim 25.

Appellant's Argument: Appellant argues that claims 26, 28 and 36, 38, which depend from claims 25 and 35 stand or fall together with claims 25 and 35.

Examiner's Response: claims 26, 28 and 36, 38 are properly rejected under 35 USC 103(a) for the same reasons cited with respect to claims 25 and 35.

For all of these reasons, the rejection of claims 25-26, 28 and 35-36, 38 under 35 U.S.C. 103(a) is proper.

B. Rejection of Claims 30-31, 33 and 40-41, 43

Appellant's Argument: Appellant argues that claim 40 is amended by the amendment submitted September 18, 2006 in like manner to claim 35 to correctly refer to "information" in the preamble.

Examiner's Response: The examiner accepts to enter the amendment due to minor typo.

Appellant's Argument: claims 41 and 43 are amended by the amendment submitted September 18, 2006 to correctly refer back to the "information receiving apparatus", rather than "user terminal."

Examiner's Response: The examiner refuses to enter the amendment because the amendment is not limited to cancelling claims or rewriting dependent claims into independent form. See 37 CFR 41.33(b) and (c). The amendment in claims 41 and 43 have affected the scope of the invention.

Appellant's Argument: Appellant argues that with respect to claims 30 and 40, the combination of references fails to teach or suggest the feature of deleting at least one of a plurality of stored content-containing items from the user terminal in an order beginning with the stored item having a lowest one of the access priorities. Bedard merely describes deleting a channel from a list of channels that is displayable as EPG information. Neither Alexander et al. nor Inoue et al. provides the teachings which Bedard lacks with respect to the invention recited in claims 30 and 40.

Examiner's Response: The examiner respectfully disagrees. Bedard explicitly discloses deleting at least one of a plurality of stored content-containing items from the user terminal (col. 4, lines 24-37, "the viewer profile can store preference information on multiple viewers in conjunction with an electronic program guide") in an order beginning with the stored item having a lowest one of the access priorities (col. 6, lines 2-8, "the viewer profile must continue to search for an entry 202 that is ***old enough to be removed*** from viewer profile array 200"; col. 6, lines 23-46, "the relevance of potential new entry 202 to be ***weighed against*** the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...*total viewing unit counters 204 of the current entries 202* ***are much lower***"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply ***remove the oldest entry 202 that has a viewing units counter lower than*** that of the entry to be added"; col. 10, lines 22-25, "means for ***removing a least preferred viewing*** status from said viewer profile listing").

Appellant's Argument: Appellant argues that claims 31, 33 and 41, 43, which

depend from claims 30 and 40 stand or fall together with claims 30 and 40.

Examiner's Response: claims 30 and 40 are properly rejected under 35 USC 103(a) for the same reasons cited with respect to claims 31, 33 and 41, 43.

For all of these reasons, the rejection of claims 30-31, 33 and 40-41, 43 under 35 U.S.C. 103(a) is proper.

C. Rejection of Claims 32 and 42

Appellant's Argument: claim 42 is amended in the amendment submitted September 18, 2006 to correctly refer back to the "information receiving apparatus", rather than "user terminal."

Examiner's Response: The examiner refuses to enter the amendment because the amendment is not limited to cancelling claims or rewriting dependent claims into independent form. See 37 CFR 41.33(b) and (c). The amendment in claim 42 has affected the scope of the invention.

Appellant's Argument: Bedard fails to teach or suggest the transmitting of priority attribute information associated with each transmitted item and using the transmitted priority [attribute] information [at said user terminal] to determine an access priority for each selected item.

Examiner's Response: The examiner respectfully disagrees. Bedard explicitly discloses the transmitting (downloading) of priority attribute information (viewer profile information) associated with each transmitted item (EPG) (col. 3, lines 57-62, "***the viewer profile may be implemented in software and like the EPG, downloaded***

into the viewer interface via an interactive television network"; col. 4, lines 15-26, "the ***viewer profile*** can monitor and store preference information...***in conjunction with an EPG***"; col. 8, lines 16-63) and using the transmitted priority information to determine an access priority for each selected item (col. 2, lines 6-12, "monitoring a viewer's activities, determining not only the viewer's favourite channels, and configuring of display of an EPG in accordance with the viewer's viewing preferences"; col. 4, lines 49-65; col. 6, lines 23-46, "the relevance of potential new entry 202 to be ***weighed*** against the relevance of existing entries 202 on the basis of the amount of time the corresponding channels have been viewed...total viewing unit counters 204 of the current entries 202 are much lower"; col. 6, line 63 – col. 7, line 6, "viewer profile will simply remove the oldest entry 202 that has a viewing units counter lower than that of the entry to be added"; col. 7, lines 19-64, "rows 404 may be configured by an EPG in accordance with the viewer profile such that ***preferred channels or preferred categories of programming are displayed at the top of table 402***"; col. 8, lines 22-43, "viewer profile array 200 can also be used to identify channels that a viewer has not been watching"; col. 8, lines 51-63, "***keeping track of viewing habits through viewer profile array*** 200"). The priority attribute information is downloaded into the user terminal (viewer interface, such as set-top unit as described in col. 3, lines 4-31) and using the transmitted priority information to determine an access priority for each selected item are clearly taught by Bedard.

For all of these reasons, the rejection of claims 32 and 42 under 35 U.S.C. 103(a) is proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jungwon Chang

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